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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,679	09/08/2000	Marc A. Edlein	D-43378-01	2639

28236 7590 03/16/2005

CRYOVAC, INC.
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EXAMINER

RAYFORD, SANDRA M

ART UNIT PAPER NUMBER

1772

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/657,679	EDLEIN ET AL.	
	Examiner	Art Unit	
	Sandra M. Nolan	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 January 0106.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-106 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims

1. After entry of any amendments in the 10 December 2004 response ("the last response") to the 05 August 2004 office action ("the last office action"), claims 1-106 are pending.

Summary of Base Claims

2. The base claims, i.e., claims 1, 27, 54 and 55, can be summarized as follows:

Claim 1 covers a packaging film comprising:

- an antifog film, and
- a printed image on the film, which image comprises a cured ink selected from the group consisting of radiation-cured and thermoset inks.

Claim 27 covers a packaging film comprising:

- an antifog film,
- a printed image on at least one side of the antifog film, and
- an overprint varnish on a substantial portion of the image, the varnish comprising a *cured* varnish selected from the group consisting of radiation-cured and thermoset varnishes.

Claim 54 covers a packaging film comprising:

- an antifog film,
- a printed image on at least one side of the film, and
- an overprint varnish on a substantial portion of the image, the varnish comprising a varnish selected from the group consisting of radiation-cured and thermoset varnishes.

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Claim 55 covers a method of reducing the tendency of ghosting in an antifog film, the method comprising the steps:

- printing an image on at least one side of an antifog film,
- applying an overprint varnish over a substantial portion of the image, the varnish being a radiation-cured or thermoset varnish, and
- later, curing the varnish.

Allowable Subject Matter

3. Claims 31, 84 and 103 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See section 4 of the last action.

Rejections Maintained

4. The 35 USC 112 rejection of claims 1-26 and 56-61 is maintained for reasons made of record in section 8 of the last office action.

5. The 35 USC 103 rejection of claims 1-10, 12-13, 16-30, 32-35, 37-38 and 40-61, over Kuo (US 5,962,092) in view of Curatolo (US 5,804,301), is maintained for reasons made of record in section 10 of the last office action.

6. The 35 USC 103 rejection of claims 11, 14-16, 36, 39, 41, 77, 87, and 93-96, over Kuo in view of Elm (US 3,976,614), is maintained for reasons made of record in section 11 of the last office action.

7. The 35 USC 103 rejection of claims 27-30, 32-25, 37-38, 40-55, 62-76, 78-83, 85-86, 88-92, 95, 97-102 and 104-106, over Kuo in view of Fairbanks (US 4,008,115), is maintained for reasons made of record in section 12 of the last office action.

8. Note: Claim 31 is not rejected in this action. It was inadvertently rejected earlier.

Response to Arguments

9. Applicant's arguments filed in the last response have been fully considered but they are not persuasive. Those arguments will be responded to in the order in which they appear in the response.

The 35 USC 112 Rejection

On page 18 of the response, applicants argue that the section 112 rejection of claims 1-26 and 56-61 as indefinite is improper because “[t]he Office Action has not pointed out any reason why one of skill in the art would misunderstand any of claims 1-26 and 56-51” (page 18, third full paragraph, third sentence).

However, the last office action states, at page 3, second full paragraph:

“These claims do not correspond to the showing presented at pages 33-36 of the specification, in which thermoset- or radiation-cured varnishes are applied to substrates that have ink on them.”

That is, the showing at pages 33-36 of applicants' specification deals with the use of varnishes on inked substrates—i.e., film/ink/varnish combinations. In contrast thereto:

(a) claims 1-26 call for film/ink combinations, and

(b) claims 56-61 call for methods of making film/ink combinations.

In sum, the film/ink/varnish combination discussed in the specification is not the same invention as the film/ink combinations recited in claims 1-26 and 56-61 and, as a result, those claims are indefinite.

The Three (3) 35 USC 103 Rejections

On pages 18- 21 of the response, Applicants rely on the showings in their specification as apparent rebuttal to the 35 USC 103 rejections of various claims over the cited references.

However, the examiner's consideration of those showings does not lead her to conclude that the claims rejected under 35 USC 103 are improperly rejected.

The references cited are deemed to suggest the claims to which they are applied. The showings do not overcome the references combined teachings because they do not convincingly demonstrate that the claims recite something that is different in kind from what the combined teachings suggest.

In other words, any properties recited in the claims and not recited in the references are deemed latent properties (i.e., properties not disclosed in the references), as are the properties discussed on pages 33-36 of the application.

On page 19, in the last three lines, applicants argue that Curatolo fails to teach solvent-base inks.

However, applicants have admitted, at page 18, lines 20-27 of their specification, that such inks are known in the art. See, especially, the discussion of a textbook and a US patent at page 18, lines 25-27 of applicants' specification.

On pages 19 and 21, applicants argue that the references do not teach the claimed levels of e-beam radiation called for in the claims.

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In the absence of convincing objective evidence to the contrary, the use of conventional dosages of electron beam radiation involves the levels discussed on pages 19 and 21 of the response.

Lastly, on page 21, applicants argue that the references do not suggest a thermoset melamine-based varnish.

However, thermoset melamine varnishes are well-known in the art. See page 27, lines 13-14 of applicants' specification, where applicants acknowledged that "thermoset melamine varnishes . . . are known to those of skill in the art".

Final Rejection

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Conclusion

Any inquiry concerning this communication should be addressed to Sandra M. Nolan-Rayford, at telephone number 571/272-1495. She can be reached Monday through Thursday, from 6:30 am to 4:00 pm, ET.

If attempts to reach the examiner are unsuccessful, contact her supervisor, Harold Pyon, at 571/272-1498.

The fax number for patent application documents is 703/872-9306.

S.M. Nolan-Rayford
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Primary Examiner
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09657679(20050314)